

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States)	
Department of Housing and Urban)	
Development, on behalf of)	
Michele Cari,)	
Charging Party,)	
)	
v.)	FHEO No. 06-04-1178-8
)	
Southmore Park Apartments, Ltd.,)	
CVM Interests, Inc., Leisure Life)	
Management, Ltd., Leisure Life, Inc.,)	
Charles V. Miller, Jr., and Dana Goss,)	
Respondents.)	
)	

CHARGE OF DISCRIMINATION

I. JURISDICTION

On September 20, 2004, Michele Cari (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD), alleging that Charles V. Miller, Jr., and Dana Goss (Respondents) violated the Fair Housing Act as amended in 1988, 42 U.S.C. § 3601 *et seq.* (the Act), by discriminating based on disability, in violation of 42 U.S.C. § 3604(f). The complaint was amended on August 4, 2005 to add Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., and Leisure Life, Inc. as Respondents.

The Act authorizes the issuance of a Charge of Discrimination (Charge) on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610(g)(1) and (2). The Secretary has delegated to the General Counsel (54 Fed.Reg. 13121), who has redelegated to the Regional Counsel (67 Fed.Reg. 44234) the authority to issue such a Charge, following a determination of reasonable cause by HUD.

By determination of reasonable cause on December 7, 2005, the Director of the Office of Fair Housing and Equal Opportunity for the Southwest HUB, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case based on disability, and has authorized and directed the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the aforementioned Determination of Reasonable Cause, Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., Charles V. Miller, Jr., and Dana Goss are charged with discriminating against Complainant Michele Cari, an aggrieved person, based on disability in violation of 42 U.S.C. § 3604(f) of the Act as follows:

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any renter because of a handicap of that renter. 42 U.S.C. § 3604(f)(1).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of rental of a dwelling because of a handicap of that renter. 42 U.S.C. § 3604(f)(2).
3. It is unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling unit, including public and common use areas. 42 U.S.C. § 3604(f)(3)(B).
4. Respondent Southmore Park Apartments, Ltd. is a limited partnership that owns Southmore Park Apartments, the subject property. According to Texas Secretary of State records, Southmore Park Apartments, Ltd. is located at 6333 Chimney Rock, Ste. 128, Houston, Texas.
5. Respondent CVM Interests, Inc. is a Texas corporation and the general partner of Southmore Park Apartments, Ltd. According to Texas Secretary of State records, CVM Interests, Inc. is located at 730 N. Post Oak #207, Houston, Texas.
6. Respondent Leisure Life Management, Ltd. is a limited partnership and the management company for the subject property. According to Texas Secretary of State records, Leisure Life Management, Ltd. is located at 730 N. Post Oak #207, Houston, Texas.
7. Respondent Leisure Life, Inc. is a Texas corporation and the general partner of Leisure Life Management, Ltd. According to Texas Secretary of State records, Leisure Life, Inc. is located at 6333 Chimney Rock, Ste. 128, Houston, Texas.
8. According to Texas Secretary of State records, Respondent Charles V. Miller, Jr. is the registered agent for Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Managements, Ltd., and Leisure Life, Inc. In addition, he is the President and Director of both CVM Interests, Inc. and Leisure Life, Inc. Charles V. Miller, Jr. also visited the property regularly, including holding

monthly resident meetings and discussing accommodation with Complainant directly.

9. Respondent Dana Goss was the on-site manager for the subject property during the relevant time period.
10. Southmore Park Apartments, the subject property, is an apartment complex of 93 units located at 2401 E. Southmore Avenue, Pasadena, Texas. The apartment complex is advertised as a senior retirement community.
11. Complainant Michele Cari is an individual with a disability as defined by the Fair Housing Act. Complainant has mobility problems due to her medical conditions, including scoliosis, hepatitis C, chronic fatigue syndrome, and back pain. Complainant Cari is substantially limited in her major life activity of ambulation.
12. At all relevant times, Respondents were aware of Complainant's status as an individual with a disability, as this information was present on her lease application. Respondent Miller and Respondent Goss both admit that they knew of Complainant's various physical impairments.
13. On September 16, 2003, Complainant leased unit 106, an upstairs unit. At the time of move-in, Complainant requested a downstairs unit, but was told that one was not available. Therefore, Complainant requested to transfer to a downstairs unit as soon as possible.
14. On or about September 17, 2003, Complainant asked Respondent Miller directly about using the elevator due to her disabilities. Respondent Miller agreed that Complainant could use the elevator.
15. In December 2003, the elevator stopped working. Complainant complained to Respondents that she needed to use the elevator due to her disabilities.
16. On or about March 10, 2004, the elevator again became inoperable for approximately a month and a half. The elevator was repaired on or about April 23, 2004.
17. On or about March 10, 2004, when Complainant complained to Respondent Goss about the inoperable elevator, Complainant again requested to be transferred to a downstairs unit. Complainant told Respondent Goss that she had only leased her upstairs unit with the agreement that she would be transferred to a downstairs unit.
18. Respondents Miller and Goss both confirm that Complainant informed them as early as March 2004 that she was told when she moved in that she would be transferred to a downstairs unit as soon as possible.

19. Respondent Goss responded to Complainant's March 2004 request for a downstairs unit by stating that the cost for a transfer would be a nonrefundable fee of \$300, a pet fee of \$300 and a deposit of \$100, in addition to the deposit and pet fee previously placed on her initial unit. In addition, the request would need to be made in writing. Respondent Goss did not request any medical documentation at that time.
20. On or about June 17, 2004 until approximately August 20, 2004, the elevator was again inoperable.
21. Complainant contacted Respondent Goss during this time to request that the elevator be fixed. In late June 2004, Complainant broke her ankle, and, in combination with her other disabilities, was confined to using a wheelchair. Therefore, the inability to use the elevator compounded her need for a downstairs unit, and without the downstairs unit or an operable elevator, Complainant could not leave her unit.
22. On June 27, 2004, Complainant received a letter from Dr. David Randall, the doctor treating Complainant's broken ankle, which Complainant gave to Respondent Goss. Dr. Randall's letter stated, "Ms. Cari has multiple medical problems including quite severe scoliosis, chronic hepatitis and chronic fatigue syndrome. It would be medically appropriate for her to have a first floor apartment." Respondents maintained a copy of this letter in Ms. Cari's tenant file.
23. In late June 2004, Complainant Cari spoke to a representative from the Multifamily division of the U.S. Department of Housing and Urban Development (HUD), who instructed Complainant to get a doctor's letter recommending the transfer.
24. In July 2004, Complainant contacted her general practitioner, Dr. David Hyman, who supplied her with a handwritten note, undated, stating it was "medically necessary for patient to have first floor [apartment]." Complainant provided this handwritten note to Respondents.
25. Respondent Miller, finding this note insufficient, contacted Dr. Hyman by telephone for more information. Dr. Hyman confirmed the necessity for Complainant to have a downstairs unit.
26. On August 15, 2004, after speaking to a different representative from the Fair Housing and Equal Opportunity division of HUD, Complainant provided Respondents with a written request for reasonable accommodation, again requesting to be transferred to a downstairs unit.
27. At no time prior to September 16, 2004 did Respondents Goss or Miller offer to transfer Complainant to a downstairs unit. However, there were at least five downstairs units that came available between March 2004 and December 2004.

28. On September 16, 2004, Respondent Goss provided Complainant with a letter stating they would allow her to transfer and would waive the transfer fee (\$300), but would still require the additional pet deposit of \$300 and the additional deposit of \$100. In addition, these fees needed to be paid within three days of notification that a unit was available.
29. On September 29, 2004, Respondent Goss provided Complainant with a letter informing her that unit 417, a downstairs unit, was available, if Complainant made her account current (Complainant owed \$100 for her initial pet deposit), paid the additional \$100 deposit for the unit, and the additional \$300 pet fee within three business days. In addition, Respondents charged more for downstairs units, so the new unit would cost \$30 more per month (\$550). Because Complainant did not have the additional money required to transfer, Complainant was unable to pay the requested fees within three business days, and therefore, was not allowed to transfer.
30. On multiple occasions during Complainant's tenancy at Southmore Park Apartments, she has been confined to her upstairs unit when the elevator was inoperable. In addition to the dates previously mentioned, the elevator was inoperable December 16, 2004 until December 20, 2004, December 21, 2004 until January 3, 2005, March 7, 2005 until March 21, 2005, and May 6, 2005 until May 9, 2005. During these period of confinements, which included the 2005 New Years holiday, Complainant Cari could not leave her apartment to buy groceries, nor to allow her dog to relieve itself.
31. By failing to grant Complainant's request for reasonable accommodation in the form of a transfer to a downstairs unit, by making acceptable housing unavailable to Complainant, by subjecting Complainant to different terms and conditions, and by refusing to make reasonable accomodations in rules, policies, practices, or services, when such accomodations may be necessary to afford Complainant equal opportunity to use and enjoy a dwelling unit, Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., Charles V. Miller, Jr., and Dana Goss have violated 42 U.S.C. § 3604.
32. Because of Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., Charles V. Miller, Jr., and Dana Goss' discriminatory conduct, Complainant Michele Cari suffered damages, including emotional and physical distress, inconvenience, and denial of a housing opportunity. Complainant Cari was confined inside of her upstairs unit for periods over a week and fell down the stairs on multiple occasions due to Respondents' lack of response to her request for reasonable accommodation. Complainant Cari felt helpless and overwhelmed by not being able to leave her upstairs unit.

III. CONCLUSION

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Office of the General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., Charles V. Miller, Jr., and Dana Goss with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604 of the Act, and prays that an Order be issued that:

1. Declares that the discriminatory housing practices of the Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., Charles V. Miller, Jr., and Dana Goss, as set forth above violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 et seq.;
2. Enjoins Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., Charles V. Miller, Jr., and Dana Goss, their agents, employees, and successors, and all other persons in active concert or participation with any of them from discriminating because of disability against any person in any aspect of the purchase or rental of a dwelling;
3. Directs Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., and Charles V. Miller, Jr. to maintain and follow a written policy at Southmore Park Apartments regarding consideration of requests for reasonable accommodations;
4. Awards such damages as will fully compensate Complainant Michele Cari, an aggrieved person, for her damages, including compensation for emotional and physical distress, and loss of the enjoyment of a housing opportunity caused by Respondents' discriminatory conduct pursuant to 42 U.S.C. § 3604; and,
5. Awards a civil penalty against Respondents Southmore Park Apartments, Ltd., CVM Interests, Inc., Leisure Life Management, Ltd., Leisure Life, Inc., Charles V. Miller, Jr., and Dana Goss for each violation of the Act committed, pursuant to 42 U.S.C. § 3612(g)(3).

The Secretary of HUD further prays for additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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